

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 05-1849 JH

MIKE HANNAH,

Defendant.

DEFENDANT'S MOTION FOR AN ORDER
SUBSTITUTING APPOINTED COUNSEL

_____COMES NOW Brian A. Pori, appointed counsel for the Defendant Mike Hannah, and pursuant to the Sixth Amendment of the United States Constitution and the Criminal Justice Act, 18 U.S.C. § 3006A, to respectfully request that this Honorable Court enter an Order appointing substitute counsel pursuant to the Criminal Justice Act. Counsel for Mr. Hannah respectfully submits that good cause for this Motion for the Substitution of Counsel exists because appointed counsel has accepted a position as an Assistant Federal Public Defender with the Federal Public Defender in Albuquerque, New Mexico and counsel cannot continue to act as counsel of record for Mr. Hannah because of a conflict of interest.

In support of this Motion for the Substitution of Counsel, appointed counsel states:

1. Mr. Hannah has pleaded guilty to the offense of conspiracy to distribute marijuana, in violation of 21 U.S.C. § 846, and is currently awaiting sentencing by this Honorable Court. (Doc. 382.)

2. Mr. Hannah is indigent and cannot afford the costs to retain counsel; consequently, this Honorable Court has appointed current counsel to represent Mr. Hannah pursuant to the terms of the Criminal Justice Act, 18 U.S.C. § 3006A. (Doc. 86.)

3. Standards for the substitution of counsel are controlled by the Defendant's constitutional right to counsel which is protected by the Sixth Amendment of the United States Constitution. *United States v. Anderson*, 189 F.3d 1201, 1210 (10th Cir. 1999). To warrant a substitution of counsel, the defendant must make a timely showing that good cause exists for the substitution of counsel based on an irreconcilable conflict which could lead to an apparently unjust verdict. *United States v. Lott*, 310 F.3d 1231, 1249 (10th Cir. 2002).

4. Current appointed counsel for Mr. Hannah, Brian A. Pori, has accepted a position as an Assistant Federal Public Defender in Albuquerque, New Mexico and will begin work with that office on February 16, 2010. Unfortunately, appointed counsel cannot continue to act as counsel for Mr. Hannah in this case

due to an irreconcilable conflict of interest which may adversely affect counsel's performance.

WHEREFORE, for all of the foregoing reasons and due to an irreconcilable conflict of interest, current appointed counsel for Mr. Hannah respectfully requests that this Honorable Court relieve current counsel from the continued representation of Mr. Hannah and appoint substitute counsel under the Criminal Justice Act to represent Mr. Hannah in this case.

Dated: February 11, 2010

Respectfully Submitted,

By: /s/ submitted electronically 2/11/10

Brian A. Pori
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Attorney for Mike Hannah

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2010, I filed a true and correct copy of the foregoing Defendant's Motion for an Order Substituting Appointed Counsel electronically through the CM/ECF electronic filing system, which caused counsel of record for the United States and counsel of record for all parties to be served with a copy of this pleading by electronic means.

/s/ Brian Pori (electronically filed (2/11/10))
BRIAN A. PORI